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ACCESS TO ELECTORAL RIGHTS

ARGENTINA

Norberto Emmerich

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Access to Electoral Rights

Argentina¹

Norberto Emmerich

1. Introduction

In the Argentine Republic the granting and effective exercise of electoral rights in the modern sense is a late occurrence within the context of Latin America. The universalization of the vote was put into effect in 1912 by means of the ratification of the first National Electoral Code (HEA, 2008; 9). In 1916 the first elections framed by the so-called Sáenz Peña Act instituting universal, mandatory and secret suffrage were held (El Historiador). Be that as it may, it was not so very universal, because the Sáenz Peña Act did not provide for the vote of women, who only attained this right in 1947.

The extension of electoral rights to expatriate Argentinians was only granted in 1991 and foreigners' right to vote only extends to municipal matters. (Emmerich, 2011a: 5-7). Just as it happens in other countries with similar migration characteristics, to this day Argentina has not been able to resolve the granting of broad electoral rights to non-citizen residents. However, already by the Nineteenth century this possibility was beginning to be debated, although mistrust of foreigners prevailed over the idea of just how much these anarchist, socialist, and communist immigrant workers were already nationalized in reality.

But as well as being a late occurrence it was also an uncommon one. Dictatorial regimes covered the better part of the political scene from 1930 until 1983, and the occasions upon which Argentine citizens were called to the ballot box were not only few but, additionally, Peronism, the main political movement, was proscribed during a great deal of these electoral events.

¹ The 'Report on Electoral Rights in Argentina' was originally published in Spanish and subsequently translated by Elaine Newton-Bruzza. The original report 'Acceso a los derechos electorales : Argentina', first published in October 2015, may be consulted online at <http://cadmus.eui.eu/bitstream/handle/1814/37339/201518-Argentina.pdf?sequence=1&isAllowed=y>

In 2012 the right to vote was granted to minors from sixteen years of age by the same legislative process in which foreign residents were denied the opportunity of voting for national offices. With 1,800,000 foreigners residing in the country, although unofficially the sum of 3 million is accepted as being closer to reality, the voter registry would have become inflated in favour of the government party, since the foreign vote tends toward the maintenance of the status quo. However prejudices with respect to this issue continue to be strong. Argentine citizens who are descended from foreigners do not want foreigners to vote. It may seem incredible, and it is, but that is reality.

2. Historical Context

In the Argentine Republic non-dictatorial governments were elected by universal masculine vote dating from 1821. The first time was in the province of Buenos Aires, during the government of Martín Rodríguez and driven by his government minister, Bernardino Rivadavia. Very few, scarcely 300 people, made use of this right at that time (Pigna, 2007).

Voting procedures in 1821 were very different from current practice, but nevertheless that electoral system could be considered broad according to the parameters of the period. It was called universal vote in the sense of Jeremy Bentham or Stuart Mills (McPherson, 1994: 35-57). Only landowners could be elected, as was the rule of the time, but what is noteworthy in Argentina's case is that this was not determined by any particular level of income (Ternavasio, 2002).

Over the course of the nineteenth century electoral participation increased gradually although the demographic manipulation of voters was an ever-present concern among the ruling elite, on the understanding that political power needed to be legitimized with the greatest number of votes possible, an idea that had taken hold with the May Revolution [Revolución de Mayo]. From 1821 on numerous and routine elections were held, although only in 1880, with the emergence of the Conservative Republic [República Conservadora], would an ordered system be created. (HEA, 2008: 17).

Although the first half of the nineteenth century is remembered for the civil wars and political instability, the electoral processes were another important aspect that was also present in the historical development of the country. When the Constitution of the Argentine Republic was adopted in 1853 it did not provide for the regulation of any electoral mechanism. Four years later, in 1857, the National Voters' Act [Ley Nacional de Electores] (Act 140) was ratified that contained serious deficiencies with regard to democratic quality, such as the voice vote.²

² 'Voting was done in groups, aloud. For example, the strong man of the town would form groups and they would all go to vote together. Obviously they voted the way the boss told them to. If they didn't, there would be consequences. The one who ruled in the area organised the vote. It was a type of election that although it may have been called democratic, obviously was not.' (Balmaceda & Salas, 2011).

Article 3 of Act 140 established that in order to vote citizens should mandatorily register in the so-called 'Evaluation Boards' ['Juntas Calificadoras']. Given that a permanent voter registry did not exist, but rather that one was created for each election, registration was a fundamental procedure of the voting process. According to Article 7 of the electoral act voters were required to be of the male sex and older than 21 years of age. (HEA, 2008: 17-18).

In 1880 the Argentine Republic began a period of economic growth known as the agro-export model, which was accompanied by great political stability.

In the years spanning 1880 to 1916 the Partido Autonomista Nacional (PAN) [National Autonomist Party] was the hegemonic party. By means of fraudulent elections and the voice vote system it came to constitute what was known by the name of '*unicato*', or single-party rule (Pigna, 2004: 333).

In January of 1890, the economic crisis became aggravated and brought with it important political consequences, basically the decline of the elite model and the rise of new political forces with popular support (Pereyra, 1999: 20). Among these new forces appears the Civic Union [Unión Cívica], which sought to overthrow the regime through revolutionary means (Pigna, 2004: 344).

The reaction of the elite, threatened by the revolutionary process, was to propose an electoral reform that was finalised through the ratification of Act 4161 in 1902. National territory was then divided into 120 single-member constituencies (Privitellio, 2006: 3); the act was later repealed by President Quintana in 1904 upon deeming the scheme of single-candidate representation by constituency to be illegal.

Various aspects of the electoral law of 1902, under which the general elections of 1905 were held, were maintained in the definitive electoral legislation of 1912. Act 8871, known as the Sáenz Peña Act, was published in the Official Bulletin of the Argentine Republic [Boletín Oficial de la República Argentina] on 26 March 1912 (HEA, 2008: 30), which allowed access to power to the will of all the Argentine people.

The effect of the Sáenz Peña Act was brief. In 1930 the first military coup took place, scarcely fourteen years after the first use of the law in the 1916 elections. The years spanning 1930 until 1946 would be known as the 'Infamous Decade', with the oligarchic sectors resorting to fraud and proscription (Dalmasso, 2014).

At the end of said period, in 1946, Perón's government won the elections and would govern for two consecutive terms until the coup d'état of 1955, which would give rise to several decades of political instability, the banning of the majority party of the country, and growing repression.

In 1983 following seven years of a military government considered to be the bloodiest in the history of the country, the return of democratic rule signified the realization of the first electoral process in many years.

The elections that were held on 30 October 1983 gave rise to a democratic government that would acquire durability as yet indisputable more than three decades later. The call for elections took place on 12 July by means of Act 22.847 that called for general elections to occur on 30 October 1983.

The election was carried out with absolute normality and the Alfonsín-Martínez ticket won the presidency with 53 per cent of the votes against slightly more than 40 per cent for the Lúder-Bittel ticket of the Justicialist Party [Partido Justicialista]. These two parties garnished nearly 92 per cent of the vote in the Presidential election and 86.44 per cent for National Deputies. The new leaders assumed power on 10 December 1983 (HEA, 2008: 146).

Nevertheless, although the democratic government managed to survive for several years later, it did not do it without dodging severe setbacks. In 1989 the hyperinflationary social crisis caused elections to be brought forward and power turned over to the winner once the elections had been held. The government was left seriously weakened due to the economic crisis (Krikorian, 2010: 534). As a consequence the winning Menem-Duhalde ticket assumed power 8 July 1989, several months before the legal date of 10 December.

Carlos Menem's new justicialist government implemented the carrying out of major neoliberal-style reforms adapted to the proposals of the so-called Washington Consensus but that had been initially administered as part of the economic plan of Martínez de Hoz, the Minister of Economy for the military dictatorship (Matsushita, 1999; cited by Duhalde, 2009).

In 1994 a constitutional reform was carried out, passed in January of that year, which was of great significance for the country. Act 22.444, ratified on 19 January 1994, updated electoral legislation in accordance with the rules of the new constitution. This law, with its modifications, is still in force to this day. The current electoral rule of the Argentine Republic, in accordance with Act 22.444 is as follows:

1. System of Proportional Representation
2. Method of Conversion of votes to seats: D'Hondt System
3. 3 per cent threshold of district voter registration
4. Election of all Argentinian representatives is achieved by direct vote of the people of the Nation of Argentina (HEA, 2008: 162-163).

2.1. Foreigners' vote in Argentina

The political project for the consolidation of the National State that was driven by the generation of 1937, with political and intellectual leaders such as Sarmiento and Alberdi, and that of 1980, with Roca as the central figure, was a fundamental element in the promotion of European immigration. This push for immigration caused the population of the country to increase from 1,830,214 inhabitants in 1869 to nearly 4 million in 1895. In that year more than 25 per cent of the population was foreign, a percentage that increased to 29.9 per cent in 1914 (INDEC, 1996).

This migratory expansion was favoured by Act 817 of 1876, called the Avellaneda Act, which fomented immigration, offering assistance to the new foreign residents.

At the beginning of 1887 various representatives of national politics such as Roque Sáenz Peña, Torcuato de Alvear, and Domingo Faustino Sarmiento formed the 'Comité Patriótico' ['Patriotic Committee'] to unite efforts between nationals and foreigners with a view to automatic naturalization that would allow immigrants to obtain Argentine citizenship without applying for it. The debate made clear that not everyone understood the same thing by automatic naturalization (Martínez Bonara y Gentili; 2011: 4). The identification of citizenship with nationality and the demand to split political rights from affiliation to a nation caused the initiative to fail.

Greloni (2012: 9-10) states that

'there was a project that ensured the granting of the same rights and obligations to foreigners established in the Republic with two years of residence. This project, known as the Foreigners' Act, was presented in 1890 in the National Congress but did not pass. This proposal was blocked by those who feared the invasion and organization of revolutionary or anarchist ideologies'.

The very economic development of the generation of '80 meant the massive incorporation of rural workers and labourers for industrialization, which gave origin to the 'social question' and the beginnings of political participation on the part of foreigners. Those who had recently arrived brought with them their anarchist and socialist ideologies and promptly drove the first trade union organisations and the first strikes.

The government response to these protests and demands was the enacting of the Law of Residence and Martial Law [Ley de Residencia y el Estado de Sitio]. But along with this repressive legislation strong argument began for an electoral solution via the aforementioned Act 4161 (Pereyra, 1999: 29), which sought to contain the protests through electoral inclusion of the mobilised sectors. In addition to the proposals regarding the single-member constituencies it sought to simplify naturalization of foreign migrants by means of a one-time enrollment in the voter registry, with the requirements of two years of residency, knowing how to read and write, being a property owner, and practising a liberal profession (Privitellio, 2006: 3).

Act No. 4161 was passed on 29 December 1902. It established the minority single-member constituency system, repealing the previous electoral laws and was not extended to foreigners, who in the end were not included.

The electoral reform (which did not include foreigners) completed the repressive legislation. According to María Fernanda Cristoforetti the Law of Residence (Law 4.144) and the Law of Social Defense (Law 7.029) sought to politically control foreign immigration through restrictive admission and repressive expulsion policies (Cristoforetti, 2004: 26).

Ten years following the 1902 reform, on 26 March 1912, Act 8.871 was ratified, known as the *Sáenz Peña Act*. Recognised as the founding regulation of the Argentine electoral system, Act 8.871 promulgated universal, secret, and mandatory suffrage (POE, 2011: 9).

Although this meant the extension of political rights to a broad sector of the population and contributed to the reduction of fraudulent practices, the universality of the vote was far from being realised: women, foreigners, and inhabitants of national territories were not recognised as voters. At the same time, in order to participate in elections the voter was required to be literate and to have taxpayer status, through which was maintained, in part, the censitary nature of the vote (HEA, 2008: 30).

Based on what was promulgated by this national regulation, it is interesting to refer to the stipulation of Law 1.240 of 1917, with reference to the municipal elections in the Federal Capital, by means of which foreigners within the Federal Capital had political rights that they were not allowed on a national level. It should be noted that according to the census of 1914, more than 49 per cent of the population of the City of Buenos Aires was foreign, a total of 778,044 people (GCBA, 2010).

Beyond the limits set out with respect to the opening of the Sáenz Peña Act, it would seem important to keep in mind that the suggestion of Hilda Sabato with regard to the importance of the law was the change in meaning of universal suffrage, which was now mandatory (Sabato, 1990: 28).

In this sense, the question arises again about political participation independently of exercising the right to vote. The political organization of which Sabato speaks included immigrants, who were integrated in political parties, campaign activities, the articulation of claims, and grievances in specific organizations. So that beyond the possibility of voting, the electoral act included another set of activities, in which immigrants have actively participated over the course of Argentine history.

With regard to migration legislation in general and to immigrants' rights, it can be shown to have been a long journey from the Avellaneda Act of 1876 (Act 817) up to and including immigration Law 25.871, adopted in 2003, which in Article 11 favours consulting immigrants on questions about public life in the country (CB). But as far as what is specifically related to foreign vote in Argentina, after the reference to legislation from the beginning of the Twentieth century there is a noted break until the decade of 1980.

At the national level, in 1986 Senator Fernando De la Rúa presented to the Committee on Constitutional Affairs a project that included the vote for Argentinians overseas and for foreigners in Argentina (Emmerich, 2011a: 6). On 3 September of that year he obtained unanimous approval from the senate, however it was not heard in the Chamber of Deputies. After a new failed attempt in 1988, the law that was finally approved in 1991 did not include the right of foreigners to vote in Argentinian elections. It only recognised the rights of Argentinians residing overseas. (Emmerich, 2014: 8).

The introduction of the right to vote for Argentinians residing overseas is explained by the need to reconcile with those of our citizens who were exiled due to political persecution from the military dictatorship. It explains, then, why the right for expatriate citizens to vote had been granted without pressure or clear demands on the part of communities of our citizens living abroad.

So that up until this point, foreign residents were not eligible to vote in national elections (president, vice president, national senator, and national deputy). However they are authorised to vote in provinces whose legislation decrees the same. Susan Novick (2010: 5) carried out a review of the provincial legislatures with respect to this matter and presents the date in which each of the provinces, with the exception of Formosa, recognised foreigners' right to vote, according to the conditions of each: Buenos Aires (1994); City of Buenos Aires (1996); Catamarca (1988); Misiones (1999); Neuquen (1994); Córdoba (1987); Corrientes (1993); Chaco (1995); Chubut (1994); Formosa (2003); Jujuy (1986); La Pampa (1989); Mendoza (1997); Río Negro (1988); Salta (1997); Santa Fe (1985); Santiago del Estero (1987); San Juan (1986); San Luis (1987); Tucumán (1983); and Tierra del Fuego (1991).

2.2. Expatriate Citizens' Vote

The history of overseas Argentinian residents' vote commences on 19 March 1986 (Emmerich, 2011a: 6), three years after the return of democracy to the country. Edith Chávez Ramos (2003) conducted an exhaustive review of the Argentinian case from the beginnings of the '80s until the year 2000, which we detail here.

With the object of contextualising Argentinian emigration, Chávez Ramos suggests that it is not a matter of a country with substantial emigration, with the exception of limited moments related to the exile generated by the political crises, the last military dictatorship, or periods of economic crisis that have generated the expulsion of people of productive age. Although the majority of cases correspond to economic reasons, political exile has significantly marked the history of emigration in Argentina in such a way that the Argentinian community abroad is formed by both processes, political and economic.

As has been said, the author maintains that the initiative regarding expatriate Argentinian citizens' right to vote, its legislative process, and subsequent practice came about in the context of democratization beginning in 1983. Although it was not a matter of top priority in the political agenda immediately following the reestablishment of constitutional rule, the political environment engendered by the advance of the process of democratization created the space for political parties and the government to reflect on the inclusion of Argentinians living abroad.

The connection with expatriate Argentinians is attributed by Chávez Ramos to the need of the Argentinian political class to bring about reconciliation with the exiled and to recognise international political pressure facing the military government. It also recognises the interest of political parties in the new electoral market that is opening and the role of the Voting Rights Act in the re-evaluation of political membership of its citizens overseas.

However, coinciding with what has been suggested based on Novick, Chávez Ramos points out that it is only since the '90s that an interesting experience in matters of the exercise of political rights of international migrants has developed.

This may be explained in part by the difficult legislative course that recognition of expatriate Argentines' right to vote took. Just as we explained in our work from 2011, the first time that the issue of expatriates' right to vote was raised was during the presidential campaign of the UCR in 1983. As a project of law it was presented in 1986 by Senator Fernando de la Rúa, in the Committee on Constitutional Affairs. On 3 September of that year it was unanimously approved by the senate. The right of foreigners to vote in Argentina was also presented in this proposal. (Emmerich, 2011a: 6 y ss.).

Matters of economic urgency resulted in it never being heard in the Chamber of Deputies and it was tabled. The same thing happened in 1988: Senator De la Rúa presented it again and the Senate approved it unanimously, but the Deputies did not consider it.

In 1991 it came back to/was sent back to the Senate, comprised only of the right of expatriate citizens to vote and not that of foreigners in Argentina. Finally, in October of that year Law 24.007 was passed, prescribing the Register of Voters Living Abroad. Foreigners interested in voting would have to enrol in this registry. The Regulatory Decree No. 1138 for the creation of this registry was drawn up in 1993.

Therefore the vote of Argentines living abroad took effect for the first time in the legislative elections of 1993, for which the National Constitution and the National Electoral Code had to be modified.

According to the table on the following page, in 1997 there were 23,405 expatriate Argentine voters registered, a figure that climbed to 26,013 in 1999, reaching 35,704 in 2005. The quantity of Argentines registered to cast their vote is reduced if one takes into account that, according to estimates by the Dirección Nacional de Migraciones [National Directorate of Migration], there existed around 1,053,000 Argentines living abroad (Emmerich, 2011b: 23), a figure larger than the electoral roll of several Argentine provinces (Novick, 2010: 16).

In the elections of deputies in 1993 5,501 expatriate Argentines voted, 62 per cent of the 8,823 eligible to vote on that occasion, which made up 0.3 per cent of the total votes cast. Since then the number has been dropping with the exception of the presidential election of 1995. Registered Argentine voters do not surpass the 3 per cent of those who are presumed to live abroad.

Among the factors that Chávez Ramos recognises as explanatory of this low turnout is the lack of information about the requirements, the disenchantment with politics in view of the governability crisis, and the difficulties with the mechanisms for casting the vote.

With regard to the electoral participation of Argentines living abroad, the work of Susana Novick (2010) completes Chávez Ramos' contribution with more recent data.

Novick speaks of a declining voter turnout that nevertheless manifests a recovery for the presidential elections of 2003 that drops again in the legislative elections of 2005. Such tendencies are expressed in the following table:

Voter Participation of Argentines Living Abroad (1993-2005)

Year	Type of Election	Registered Voters	Votes cast	Per cent of Voter Turnout
1993	National Deputies	8,814	5,337	60.55%
1995	Presidential	18,118	9,567	52.85%
1997	National Deputies	23,405	5,737	24.51%
1999	Presidential	26,013	8,824	33.92%
1999	National Deputies	25,138	7,862	31.28%
2001	National Deputies	28,158	3,589	12.75%
2003	Presidential	29,293	6,420	21.92%
2005	National Deputies	35,704	2,992	8.38%

Source: Resolución 452/07, Ministry of the Interior, República Argentina, cited in Novick, 2010 and in Emmerich, 2011a and 2011b.

As part of the Provincia 25 program, a program created under the auspices of the Ministry of the Interior that sought to strengthen connections to Argentines living overseas by means of various initiatives, in August 2009 a law project was presented in the National Chamber of Deputies in order to create an overseas electoral district with parliamentary representation.

According to the text of said project expatriate Argentines could count on 5 deputies to represent them in the Chamber and political parties could present candidates for this overseas district.

3. Who has electoral rights under Argentine law?

3.1. Citizen residents in Argentina

Voting age/age for standing as a candidate: The minimum voting age is 16 years, eligibility encompassing any type of election, but the vote is not compulsory for minors under 18 years of age (Fiscal de Mesa, 2014a).

Mental disabilities: ‘Persons with mental disabilities, unless an intervening judicial declaration expresses the contrary, have the right and the obligation to vote’ (MS, 2014).

Criminals and prisoners: Under the terms established by Law 19945, prisoners or persons who have committed a crime in Argentina may not vote nor be elected in accordance with the following provisions:

- Those sentenced for wilful crimes to a prison term and for final judgment may not vote.
- Those sentenced for offences provided for by law under national and provincial laws for illegal gambling may not vote for a term of three years; in the case of recidivism, for six.
- Those sanctioned for the offence of desertion may not vote for double the length of the term of penalization.
- Those declared to be in contempt of court may not vote until the contempt ceases or the statute of limitations is reached (POE, 2011: 86).

However those accused persons who are serving a preventative prison term (POE, 2011: 87) and who are not serving a final judgment may vote.

Members of the army or of the police: In Argentina members of the Army and/or the police are able to vote, as their employment status does not preclude their obligations as citizens. Those persons who are serving military service, have recently attained voting age, and are under command may not vote. However career military personnel are required to vote. Police who are monitoring the ballots vote at the poll they are watching, and the rest vote in their precinct designated by home address (El Intransigente, 2015). Otherwise, they must present themselves at the nearest police station and justify why they did not vote. Regarding candidature, active military personnel may not serve as National Deputies (POE, 2011: 43) nor join political groups (IIDH).

Indigenous peoples: No particular regulations exist for this category of voters in Argentina.

Other categories of citizens who do not have the right to vote: Electoral Legislation (Law 19945) establishes that those who may not vote are:

- Those disqualified according to the regulations of the Law of Political Parties.
- Those who by virtue of other legal prescriptions and regulations may be disqualified from the exercising of political rights (POE, 2011: 86).

3.2. Citizens Residing Abroad

Until 1991 residency within the country was an essential condition for voting and even more so for being elected.

Argentinian legislation allows the right to vote while living overseas only in national elections: president, vice president, national deputies, national senators. (Emmerich, 2011a: 13).

As affirmed by the Argentinian National Electoral Chamber [Cámara Nacional Electoral argentina] those Argentinians living abroad who would like to participate in the Argentinian electoral processes shall enroll in a specific registry and may elect national offices (president, vice president, national deputies, national senators). In contrast to voters residing within the country, registering to vote and voting are voluntary (CNE).

In the cases of elections for national deputies and senators, expatriate Argentinians vote for the candidates corresponding to the electoral district of their last registered domicile in the country. The voting system is by single ballot, which differs from that which is used within the country, a ballot for the presidential election and another for each district.

Argentinians living abroad may not be candidates for any elective position because legislation requires minimum residency of two years within the country in order to be elected.

A resident living abroad who returns to the country at the moment of the election may vote if s/he has not registered to vote by absentee ballot and, as a consequence, still appears on the national electoral registry.

Argentinian democratic institutions do not provide for representation of Argentinians living abroad by either of the two habitual models, assimilated representation (a special district for Argentinians living overseas) or special representation (a legislator in the parliament).

3.3. Non-Citizen Residents in Argentina

In the Argentine Republic foreigners do not have the right to vote in elections for national offices, that is to say for president, vicepresident, and national legislators: deputies and senators (Emmerich, 2011a: 11).

Each province regulates foreign vote autonomously. Although all, with the exception of Formosa, authorize foreign citizens to vote in municipal elections, some extend the right to vote for provincial offices (City of Buenos Aires, Buenos Aires Province, Córdoba, La Rioja), some authorise foreigners to run as candidates for municipal councils (Santa Fe, Neuquén), and even as mayors, as in Santa Fe province. The common trait of all is that the procedures are different in each one of these (Emmerich, 2011a: 14).

Except for in some locations (the province of Santa Fe, for example), where they may be elected as city councillors, in general foreigners may not accede to elective posts.

4. Exercising Electoral Rights

4.1. Registration Processes

Citizen residents are automatically registered in the so-called electoral ‘rolls’, which are updated for each electoral proceeding. Citizens living abroad should register at the consular or diplomatic offices of their country of residence in order to be able to exercise their right to vote. (IDEA, 2008: 6).

The registration process is as follows:

VOTING WHILE LIVING ABROAD. PRACTICAL PROCEDURES		
	REQUIREMENTS	WHERE TO REGISTER
Act 24007, from 1991, implemented by Decree 1198 from 1993 and Decree 254 from 2009	<p>a) Be of 18 years of age</p> <p>b) Have completed a change of address on voter’s civic identification document (L.E./L.C./DNI.) in the corresponding consular jurisdiction;</p> <p>c) Visit the office in your jurisdiction and state your willingness to be included in the Ex-Patriate Voter Registry. Enrollment in the registry is updated twice a year (30 June and 31 December);</p> <p>d) Be in a position to exercise your political rights in accordance with national legislation;</p> <p>e) Not be found having any disqualifications provided for by Article 3 of Law No. 19.945—National Electoral Code—and its amendments.</p> <p>Votes shall be allocated to the district of the last address in Argentina.</p> <p>Political parties may appoint public prosecutors (Decree 1138/1993, art. 13).</p>	<p>At the Argentine consular department in each country.</p> <p>Procedure:</p> <p>First make address changes before the deadline stipulated for each election. For that you should:</p> <ul style="list-style-type: none"> - Complete personal data on the electronic form on the computer. The interested party should complete the form, not consulate personnel. - Submit certification of address in the country (any utility bill). The consulate will take a photocopy. - Submit DNI [National Identity Document] - Pay a fee of approximately US \$3.00. - Sign (2 signatures) the printed personal data form. - Provide thumbprints of both hands on the application form. - The address change will be recorded a few hours later. That means that you will have to return later or the next day to pick up the DNI with the new change of address. <p>Once the change of address has been made you may register as an Argentine expatriate voter:</p> <ul style="list-style-type: none"> - Apply for enrollment on the Ex-Patriate Voter Registry, by filling out the CARE form (available on Internet). - In the case that the address is already updated on

		<p>the DNI in advance of the electoral calendar, the CARE form may be submitted by mail.</p> <ul style="list-style-type: none"> - The consulate makes the voter registry available to registered voters for revision and corrections. - Following revisions, the final registry is issued.
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Source: The 'Requirements' section was taken from Emmerich, 2011a: 13. The 'Where to Register' section is the author's own work based on voting experience in the Argentine consulate in Mexico, 2011.

a. Foreign residents have stipulated voting procedures depending on each provincial jurisdiction. They may not vote in national elections. These procedures vary in each province and are detailed in Appendix 2.

According to Campagna y Rosales (2003) the following procedural particularities among the different Argentinian electoral districts may be noted:

- In legislation from the Province of Buenos Aires and the Autonomous City of Buenos Aires that were promulgated at the end of the Twentieth century the inclusion of the full extent of political rights was already being considered. The aforementioned legislation tends to view citizenship as extending to all inhabitants with comparable requirements, to natives, naturalised individuals, and foreigners. In its Article 5, the compulsory vote promulgated by the Autonomous City of Buenos Aires allows for a foreigner to petition to be excluded from said requirement by means of a sworn declaration.
- In the legislation of several Argentine provinces where foreigners have voting rights, not only is it possible for foreigners to vote, but they may also be eligible for office, although there are limits as to the quantity of foreigners who may make up the respective city councils.
- The most common requirements refer to: legal age, knowing how to read and write the national language, and the duration of residency, which varies from two to three years.
- In all legislations a Special Registry has been set up for foreign voters.
- Voters should possess a National Identity Document for Foreigners or identification that verifies said condition and confirms a real address.
- The compulsory nature of the vote is in place in Mendoza, Neuquén, the Province of Buenos Aires, and the Autonomous City of Buenos Aires, although in the latter Article 5 allows for a foreigner to petition to be excluded from said requirement by means of a sworn declaration.

4.2. Voting Methods

1. For Argentine citizens residing in the country or for non-citizen foreign residents: the voting method is to cast the vote in the designated 'polling booth', generally in a school classroom, where the ballots of all the parties are made available. The voter chooses his or her ballot, which s/he will place in an envelope and later in the ballot box before the voting officials, outside of the 'polling booth' (Decree 2135, arts. 82 y 92).

2. Electronic vote: This does not have widespread implementation in the Argentine Republic. According to the following table, of the 24 Argentinian provinces (including the city of Buenos Aires) electronic voting trials were made in 11 of these dating from 2003. The Autonomous City of Buenos Aires, capital of the country, is still not able to utilize an electronic voting system. (Infonews, 2015).
3. Vote by post: in the voting procedures of the Argentine Republic there is no form of voting by post.
4. Argentinians living abroad: the procedures are detailed in section 4.1.

4.3. Running as candidate

Article 89 of the National Constitution states: ‘in order to be elected president or vice president of the Nation it is necessary to have been born in the Argentine territory, or to be the child of a native-born citizen if born in a foreign country, and to have the other qualifications required to be elected senator’. And in Article 55, where the requirements for being elected senator are given it states: ‘These are the requirements for being elected senator: be of thirty years of age, having been six years a citizen of the Nation, have an annual income of two thousand *pesos fuertes* [monetary unit of the time] or similar revenues, and be a native of the province in which s/he is elected or have two years immediate residency therein’. Article 48 refers to the requirements for being a National Deputy: ‘in order to be a Deputy it is necessary to have attained the age of twenty-five years, to have a term of four years of citizenship, and to be a native of the province in which s/he is elected, or have two years immediate residency therein’.

In other words the Constitution sets out that in order to be president, vice president, deputy, or national senator it is necessary to have two years of previous residency in the country.

As a consequence there is no express prohibition for a passive suffrage, but the conditions for becoming a candidate prevent an overseas resident from becoming one.

In theory an overseas resident could be a candidate if there is no change of address to the new overseas address. S/he could become a candidate at her/his legal Argentinian address. This would imply not voting while overseas and traveling to the country in order to vote on every election day in Argentine so as not to infringe upon the law mandating voting. It is a circuitous situation, but theoretically possible.

5. Conclusion

The Argentine Republic shares similar legislation and electoral practices with those that are in effect in different countries of the world. But with regard to the political rights of Argentinians living abroad and with those of foreigners residing within the country, the underdevelopment and resistance to advancing beyond what has been achieved is notorious.

Foreigners' right to vote in the country of residence

In 2012 the Argentine Republic debated a law project presented by national Senators Aníbal Fernández and Elena Corregido through which foreigners with permanent residency would be able to vote for national offices. The Project of Law S-2696/12 maintains verbatim in its Article 1 that: 'voters are those national citizens having 16 years of age and those foreigners with permanent residency under the terms of Law No. 25.871, twenty-four months from having obtained such status; in all cases they should not have any of the disqualifications provided for in this law'. On 19 and 26 September of that year public hearings were held so that civil society organizations could expound their points of view surrounding this law project' (Emmerich, 2013a: 28-29).

The right to vote at the national level for non-citizen residents is seldom debated, and this is logical within a traditional worldview of citizenship. But if political rights, and specifically the right to vote, are a human right (as is shown by the interpretation that the Committee for Human Rights makes of Article 25 of the International Covenant on Civil and Political Rights), non-citizen immigrants' vote for national offices in their country of residence is a right whose legal sanction and effective implementation should be called for.

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Appendix 1

VOTING CONDITIONS BY VOTER CATEGORY	
Citizen residents	Native Argentinians may vote voluntarily from the age of sixteen (16) years and naturalised Argentinians from the age of eighteen (18) years, as long as they appear on the voter registry and present the supporting document (Infonews, 2013).
Expatriate Citizens	Expatriate Argentine citizens who have previously registered at the consular offices may vote, which requires a change of address to the foreign residence. Expatriate Argentines may only vote for national offices (Emmerich, 2011a: 15).
Non-citizen residents	Non-citizens residing within the country may vote in municipal elections throughout the contry, except in the province of Formosa. And they may elect provincial offices in the Province of Buenos Aires, Córdoba, and La Rioja. They may also vote in elections for the head of government of the City of Buenos Aires. Non-citizen residents in Argentina may not vote for national offices (Emmerich, 2011a: 21).

Appendix 2

NON-CITIZEN RESIDENTS. PRACTICAL PROCEDURES		
	REQUIREMENTS	WHERE TO REGISTER
Autonomous City of Buenos Aires	<ul style="list-style-type: none"> - Have 'permanent resident' status in the country under the terms of immigration legislation - Possess a foreign National Identity Document [DNI] - Prove 3 years of residency in CABA [Autonomous City of Buenos Aires] - Have recorded on the DNI the most recent address in the city - 18 years of age - Not be found ineligible as established by the CEN (Código Electoral Nacional) [National Electoral Code] (Law 334, 2000). 	<p>In the offices of the Municipal Superior Court of Justice [Tribunal Superior de Justicia de la Ciudad] Cerrito 760, Monday through Friday from 9:00 to 15:00.</p> <p>There is no fee for this process.</p> <p>The instruction manual³ states that voting is not compulsory and gives another voter registry address (at the civil registry district corresponding to the voter's address, from Monday through Friday from 9.30 to 14.30). Law 334, Art. 9 states that voting is compulsory: 'foreign citizens have the same obligation to participate in local elections as native citizens'.⁴</p>
	<p>There are differences between the requirements listed on the city web page and the web page of the General Electoral Office. Voting is compulsory,⁵ according to Law 334, Art. 9 and according to what is stated on the DGE page. Voting is compulsory, but registering is voluntary (Emmerich, 2011a: 17).</p>	
Buenos Aires	<ul style="list-style-type: none"> - Adult of legal age (18 years) - Know how to read and write in the national language - 2 years residency in the territory of PBA [Province of Buenos Aires] (Fiscal de mesa, 2014b). 	<p>In the office of the Provincial Registry corresponding to the individual's home address.</p>
	<p>Registration in the non-citizen electoral roll is a permanent record and is valid for all future elections.</p> <ul style="list-style-type: none"> - Present DNI to vote, at special tables for non-citizens. According to the Constitution of the Province, may run as candidates for council throughout the 	

³ www.buenosaires.gov.ar/guiaba/guia/?info=detalle&menu=1&id=912

⁴ http://www.buenosaires.gob.ar/areas/seguridad_justicia/dg_electoral/electores_extranjeros.php

⁵ Who is required to vote? All citizens of both sexes, natives by birth, by choice, or naturalized, who have reached the age of 18 up until the same day of the polling. Said citizens will be included on the Voter Registry. In elections for local posts, foreign men and women who have previously and voluntarily enrolled in the City Non-Citizen Voter Registry, created by Law 334 and administered by the Superior Court of Justice [Tribunal Superior de Justicia].

http://www.buenosaires.gob.ar/areas/seguridad_justicia/dg_electoral/preguntas_frecuentes.php?menu_id=24396

	provincial territory, with five (5) years of residency <ul style="list-style-type: none"> - Know how to read and write the national language (BA). 	
La Pampa (Law 1197, 1989)	<ul style="list-style-type: none"> - Adult of 18 years of age - Six years of immediate, actual, and continuous residency in the province <ul style="list-style-type: none"> - Of those, three must be in the municipality where s/he wishes to vote - Enroll in the non-citizen voter registry for the province - Not be found ineligible due to any cause provided for under current electoral law. 	
	The Electoral Court shall officially cancel the enrollement in the Registry when the voter shall not have voted in two or more consecutive elections, in no instance having justified on time and properly the failure to vote.	
Neuquén (PJN, 2010)	<ul style="list-style-type: none"> - Be an adult of 18 years of age - Two years of residence in the municipality - Two (2) 4x4 photos 	Justices of the Peace, with DNI, two 4x4 photographs on white background and two witnesses to verify residency. The non-citizen voter registry is only made up once.
	Vote at the non-citizen table (MyF). Present DNI ⁶ to vote and non-citizen voter identification card. Once registered the voter is required to vote in all municipal elections. The registration process need NOT be done in person. The process is free of charge.	
Chubut: the right to vote and be elected in municipal elections. (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - Know how to read and write the national language - Practise a legal activity - Three years of residence in the municipality - Verify/Fulfill one of the following conditions: 1. Be a taxpayer. 2. Have an Argentinian spouse or children. 3. Hold an administrative post in a recognized association. 	
Santa Cruz (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - Adults of legal age - One year of immediate previous residence in the municipality - Know how to read and write - One of the following conditions: 	Offices of the Civil Registry [Registro Civil] for the voter's address between 60 and 105 days before polling. Present DNI or police Identity Card with permanent address.

⁶ S/he may vote without DNI if the polling officer accepts the verification of identity by means of some simple questions. However s/he may not vote without a non-citizen voter identification card.

	be a municipal taxpayer, have an Argentinian spouse or children, practice a liberal or teaching profession, hold an administrative post in a recognized trade-union, employee or employer association.	Municipal certificate attesting that applicant meets conditions.
Tierra del Fuego ⁷ (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - In Río Grande: older than 18 years, ten years of continuous and immediate residence in the municipality at the moment of registration - In Ushuaia: older than 18 years, know how to read and write in the national language, five years of legal address for municipal taxpayers and ten years and verification of good conduct for those who are not taxpayers. All this must be certified and the certification must be presented 45 days prior to each election to the provincial Electoral Court. 	
	<p>The non-citizen voter registry is renewed for each election.</p> <p>Voting is voluntary</p>	
Río Negro (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - Three years of immediate and uninterrupted residence in the municipality - Apply for enrollment in the corresponding registry 	<p>At the Municipal Electoral Committee [Junta Electoral Municipal]. Pick up enrollment application. Present two photos of the type for identification card.</p> <p>The non-citizen voter registry is renewed for each election.</p>
	To vote, present DNI and Municipal Electoral Booklet (green booklet) [Libreta Electoral Municipal (libreta verde)]	
Mendoza (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - Adult of 18 years of age - Two years of residence in the municipality - Casting of the ballot is compulsory for registered voters. 	
	To vote, present ID or passport and certificate of enrollment in the non-citizen voter registry, where proof of your vote will be stamped.	

⁷ The two largest cities have different regulations.

San Juan (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - Adult of 18 years of age - Two years of actual, immediate, and continuous residency in the municipality at the moment of enrolling in the registry. 	At the Justice of the Peace of the municipality.
	The non-citizen voter registry is renewed for each election.	
San Luis (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - Adult of 18 years of age - Have one year of immediate residency by election time - Enrolled in the special registry of the burough. 	
Córdoba (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - Previous legal address in the locality at the time of enrollment, for a period of no less than 90 days. - Adult of 18 years of age - Five years of permanent and continuous residence in the province - Proof of one of the following conditions: <ul style="list-style-type: none"> - Be married to an Argentinian citizen - Be father or mother of an Argentinian child - Practise a legal activity - Be a contributing taxpayer 	<p>At the Provincial Electoral Court (capital of Córdoba) or before a delegation of the Administration of the Judiciary [Administración del Poder judicial] closest to the voter's address or by certified, registered letter at the Provincial Electoral Court.</p> <p>Voter must complete the application for enrollment form</p> <p>Voter must submit an original DNI and photocopies of the relevant parts.</p>
Santa Fe (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - Be of legal age - Two years of residence in the municipality - Not be found ineligible due to any cause established by provincial electoral law. - One of the following conditions: practise a liberal profession, be a taxpayer within the municipality, paying burough or provincial taxes, have an Argentinian spouse or children. 	<p>Annually from 1 to 15 of August, all business days.</p> <p>At the provincial electoral committee office or in the Registry Office [Junta Inscriptora] of each municipality.</p>
	<p>The non-citizen voter registry is renewed for each election.</p> <p>Non-citizens may run as candidates for municipal councils.</p>	

Entre Ríos (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - Two years prior and immediate residency in the municipality at the time of enrollment - Know how to read and write the national language - Adult of 18 years of age - One of the following conditions: <ul style="list-style-type: none"> - Be a contributor through direct payment of taxes or contributions - Be married to an Argentinian woman - Be the father of Argentinian children - Practise a liberal profession 	
Corrientes (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - Adult of 18 years of age, know how to read and write the national language, and have two years of immediate, prior residence in the municipality. 	It depends on each municipality
Misiones (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - Enrollment in the municipal registry - 18 years of age - Know how to read and write the national language - Practise a legal activity - Two years of immediate prior residence in the municipality - Enrollment in the appointed voter registry - Three years of permanent residence in the municipality - Be a direct taxpayer or have Argentinian spouse or children - Submit two 4x4 photos 	If living in the interior of the Province, at the Municipal Justice of the Peace corresponding to the voter's address; or in the Electoral Court of the Province of Misiones [Tribunal Electoral de la Provincia de Misiones] located at Alberdi 690, Ciudad de Posadas, if the voter's address is in this city.
	<p>To vote, present non-citizen voter identification (orange color).</p> <p>The non-citizen voter registry is a permanent record.</p>	
Catamarca (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - 18 years of age - Four years of residence in the municipality - Not have foreseeable ineligibilities 	<p>National Electoral Secretary's Office of the Province of Catamarca [Secretaría Electoral Nacional de la provincia de Catamarca].</p> <p>República 323 CP 4700, Catamarca</p>

	The non-citizen voter registry is a permanent record. (Art. 2 Act 4628)	
Salta (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - Adult of 18 years of age - Two years of immediate residence in the municipality at the moment of enrollment in the special supplementary registry 	At the Registry of Vital Statistics [Registro del Estado Civil y Capacidad de las Personas] of each municipality.
La Rioja (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - Adult of 18 years of age - Know how to read and write - Two years of immediate residence in the province - Verify identity with DNI or identification document 	At the Registry of Vital Statistics [Registro del Estado Civil y Capacidad de las Personas] of each district of the province.
	Enrollment in the voter registry is final and shall serve for all future occasions.	
Chaco (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - Adult of 18 years of age - Two years of immediate residence in the municipality - Official proof which verifies that the interested party knows how to read and write the national language - Voter must enroll in advance six months prior to the election date - Two 3x3 photographs 	<p>Every two years, within 60 days, at the voter registry office of each municipality with:</p> <ul style="list-style-type: none"> . National or Provincial Identification Card or non-citizen identification document . Summary police information that verifies minimum residence of two years. . Official proof of national or provincial instruction which verifies that the interested party knows how to read and write the national language . Two 3x3 photographs, right profile, white background, without glasses
Formosa (Fiscal de mesa, 2014b)	NON-CITIZENS MAY NOT VOTE	

Santiago del Estero (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - Adult of legal age - Two years of immediate residence in the municipality at the moment of enrollment in the supplementary non-citizen registry 	<p>The exact determination of address is indispensable for the enrollment of non-citizens. This shall take place before the Registry Commission by means of a certificate from the local Police.</p> <p>When enrolling in the Voter Registry the voter shall submit a certificate, in which are verified his/her name and surname, age, nationality, address, fingerprints, date and number of enrollment, which will allow him/her to claim the Voter's Booklet. These booklets shall contain the same data as that recorded in the National Register, plus the photograph and fingerprints of the voter, renewable in any case of loss or damage, which shall be verified by the duplicate that is turned in and expressly annuls the previous booklet. This shall also serve as an enabling instrument indispensable for voting.</p>
<p>To vote, present Voter's Booklet.</p> <p>The registry is purged every four years, or before an election if it falls before that deadline.</p>		
Jujuy (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - Adult of 21 years of age, minimum of two years of residency in the municipality, and taxpayer. <p>Present:</p> <ul style="list-style-type: none"> - Photocopy of National Identity Document [D.N.I.] - Certificate of residency issued by the local Police. <p>If living at a same address they should verify marital status via the corresponding certificate. All this is done to ensure that each person is a taxpayer.</p>	It depends on each municipality
Tucumán (Fiscal de mesa, 2014b)	<ul style="list-style-type: none"> - Adult of 21 years of age - Two years of immediate residency in the municipality - Be a taxpayer - Enrollment in the municipal voter registry 	

NATIONAL	NON-CITIZENS MAY NOT VOTE
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